

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADAPAUL JONES,
Plaintiff,

v.

WARDEN WILLIAMS, et al.,
Defendants.

Case No. 2:23-cv-01083-ART-DJA

ORDER

On July 21, 2023, this Court ordered Plaintiff to either pay the full \$402 filing fee for this civil-rights action or file a fully complete application to proceed *in forma pauperis* by September 19, 2023. (ECF No. 4). Plaintiff timely filed an application to proceed *in forma pauperis*, but it is incomplete because Plaintiff did not submit a financial certificate that has been signed by a prison official and an inmate account statement for the previous six-month period with his application. (See ECF No. 5). Plaintiff also filed a “Motion for Default Judgment” that appears to seek an order granting him *in forma pauperis* status. (See ECF No. 7).

To the extent Plaintiff’s motion seeks entry of default or default judgment, his requests are denied as premature. Default can be entered against a party who has failed to plead or otherwise defend against an action. Fed. R. Civ. P. 55(a). Default judgment can be entered against a party that has been defaulted if certain other requirements are met. See *id.* at 55(b). But this action is in the pre-screening stage, which means no defendant has been served with process and no defendant is currently required to defend against this action. And no defendant can be served with process, and thus be required to respond to this action, until the Court orders that to happen.

To the extent Plaintiff’s motion seeks an extension of time to either pay the full filing fee or apply for *in forma pauperis* status, the Court grants that relief. Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to commence a civil action may

1 apply to proceed *in forma pauperis*, which allows the inmate to file the civil action without
 2 prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must
 3 submit all three of the following documents to the Court:

4 (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, on this
 5 Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on
 6 page 3),

7 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
 8 official (i.e. page 4 of this Court's approved form), and

9 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
 10 **previous six-month period.**

11 If Plaintiff is having difficulty obtaining the required financial certificate and inmate
 12 account statement for the previous six-month period from prison officials, then Plaintiff
 13 will file the first three pages of the application to proceed *in forma pauperis* on this Court's
 14 approved form together with a declaration detailing when he requested the documents,
 15 who he spoke to about the status of the documents, who he followed up with after he did
 16 not receive the documents, and their responses. Plaintiff's declaration will include dates
 17 of his requests, dates of his follow-up requests, names of the prison officials that he spoke
 18 to about the matter, and their responses. If Plaintiff's declaration demonstrates that he
 19 has done all that was possible to acquire the documents from prison officials, the Court
 20 will consider his application to proceed *in forma pauperis* complete.¹

21 Accordingly, IT IS HEREBY ORDERED that Plaintiff's incomplete application to
 22 proceed *in forma pauperis* (ECF No. 5) is denied without prejudice.

23 IT IS FURTHER ORDERED that Plaintiff's motion for default judgment (ECF No. 7)
 24 is construed as seeking an extension of time to either pay the filing fee or apply for *in*
 25

26
 27 ¹ Plaintiff must still submit the first three pages of the application to proceed *in*
 28 *forma pauperis* on this Court's approved form with his declaration. If Plaintiff does not
 submit the first three pages of the application to proceed *in forma pauperis* with the
 declaration, the Court will recommend dismissal of this case without prejudice for Plaintiff
 to open a new case when he is able to acquire the required documents.

1 *forma pauperis* status, and that narrow relief is granted. The motion (ECF No. 7) is denied
2 in all other respects.

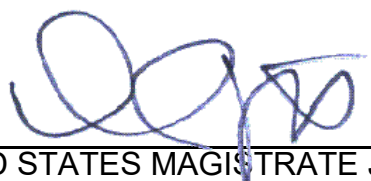
3 IT IS FURTHER ORDERED that **on or before November 2, 2023**, Plaintiff will
4 either pay the full \$402 filing fee for a civil action or file a new fully complete application
5 to proceed *in forma pauperis* with all three required documents: (1) a completed
6 application to proceed *in forma pauperis* with the inmate's two signatures on page 3, (2) a
7 financial certificate that is properly signed both by the inmate and a prison official, and
8 (3) a copy of the inmate's prison trust fund account statement for the previous six-month
9 period.

10 IT IS FURTHER ORDERED that **on or before November 2, 2023**, if Plaintiff is not
11 able to obtain his financial certificate and inmate trust fund account statement from prison
12 officials, Plaintiff will file the first three pages of the application to proceed *in forma*
13 *pauperis* together with a declaration detailing the efforts he took to acquire the financial
14 certificate and inmate account statement from prison officials.

15 IT IS FURTHER ORDERED that if Plaintiff does not either pay the full filing fee or
16 file a fully complete application to proceed *in forma pauperis* with all three documents or,
17 alternatively, file the first three pages of the application to proceed *in forma pauperis* and
18 a declaration detailing the efforts he took to acquire the financial certificate and inmate
19 account statement from prison officials, on or before **November 2, 2023**, the Court will
20 recommend that this action be dismissed without prejudice. Dismissal without prejudice
21 allows Plaintiff to refile his case with the Court, under a new case number, when he can
22 either pay the required filing fee or apply to proceed *in forma pauperis*.

23 IT IS FURTHER ORDERED that the Clerk of the Court will resend Plaintiff Paul
24 Jones the approved form application to proceed *in forma pauperis* for an inmate and
25 instructions for the same and retain the complaint (ECF No. 3-1) but not file it at this time.

26 Dated this 3rd day of October, 2023.

27
28 
UNITED STATES MAGISTRATE JUDGE